

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15758
[REDACTED])	
)	DECISION
Petitioner.)	
_____)	

On May 11, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1997 and 1998 in the total amount of \$5,418.

On July 12, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but wanted additional time to put her information together and submit returns for consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer filed an extension of time for filing forms for the tax years 1997 and 1998. She also made estimated payments for those tax years. The Tax Discovery Bureau (Bureau) followed up on the extension of time filings and found the taxpayer failed to file income tax returns. The Bureau sent the taxpayer a letter asking her to file her 1997 and 1998 income tax returns but received no response from the taxpayer.

The Bureau [Redacted] prepared income tax returns for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested. The taxpayer stated she received a civil service pension in each of the years that should not be taxed. She also wanted to make sure her estimated payments were applied to the correct years.

The Tax Commission sent the taxpayer a letter giving her two options for having the Notice of Deficiency Determination redetermined. The taxpayer responded that her main source

of income was a civil service pension. She also responded to a question posed in the Tax Commission's letter that she had the documentation to substantiate her basis in the stocks and bonds sold, but that she was having problems getting it in order. The taxpayer stated her husband purchased the stocks and bonds over 20 years ago and all the records were in various ledgers and envelopes. Since her husband was deceased, the taxpayer stated she needed help in deciphering and sorting through the information.

The Tax Commission and the taxpayer worked together to determine the taxpayer's basis in the stocks and bonds sold. The taxpayer also provided documentation to substantiate the civil service pension she received. Idaho Code section 63-3022A provides for the deduction of certain retirement benefits. Included in that code section are retirement benefits paid by the United States of America to the unremarried widow of a retired civil service employee. Therefore, based upon the information provided, the Tax Commission modified the returns the Bureau prepared.

The modifications to the 1997 return resulted in a refund for the taxpayer. However, Idaho Code section 63-3072 states that a claim for credit or refund of payments made with an extension of time to file or a tentative return must be made within three years from the due date of the return. The 1997 return had a due date of April 15, 1998. The taxpayer's refund was not determined until just recently, well past the three-year statute. Therefore, the Tax Commission cannot refund or credit the excess tax paid for 1997.

The Bureau added interest and penalty to the taxpayer's tax for 1998. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated May 11, 2001, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$0	\$0	\$0	\$0
1998	616	154	185	<u>955</u>
			TOTAL DUE	<u>\$955</u>

DEMAND for immediate payment is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]
